

Gavin Kogan (CA Bar No. 201564)
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 Kogan & Associates, LLC
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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

JASON O. WATSON)	
Plaintiff,)	PLAINTIFF'S MOTION
)	FOR ENTRY OF DEFAULT
vs.)	AGAINST DEFENDANT
)	
)	
ROLLIN R. HEASSLER)	
Defendant.)	CASE NO. CV 08-01851 JCS
)	
)	

COMES NOW, Plaintiff JASON O. WATSON, who moves the Clerk to enter a default against Defendant ROLLIN R. HEASSLER pursuant to Federal Rule of Civil Procedure 55(a) on the basis that the record in this case demonstrates that there has been a failure to plead or otherwise defend. In support of this motion, Plaintiff files herewith his Brief in Support of his Motion for Entry of Default.

WHEREFORE, Plaintiff respectfully requests that his Motion for Entry of Default against Defendant be granted and that he be awarded any additional relief the Court deems proper.

{Signature on following page.}

1 This 13th day of May, 2008.

2 Respectfully submitted,

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5 Gavin Kogan (CA Bar No. 201564)
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9 Santa Cruz, CA 95060
10 (408) 361-8214 (telephone)
11 (408) 907-4143 (facsimile)

12 Attorneys for Plaintiff

13 **CERTIFICATE OF SERVICE**

14 I certify that I have this day served a copy of the following:

15
16 PLAINTIFF'S MOTION FOR ENTRY OF DEFAULT AGAINST DEFENDANT
17 upon all parties to this matter by depositing a copy of same in the U.S. mail, proper postage
18 prepaid, addressed as follows:

19 Mr. Rollin R. Heassler
20
21 612 Akron Street
22 Mountain View, CA 94043

23
24 {Signature on following page.}
25
26
27
28

1 This 13th day of May, 2008.

2 Respectfully submitted,

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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JASON O. WATSON

Plaintiff,

vs.

ROLLIN R. HEASSLER

Defendant.

**PLAINTIFF'S BRIEF IN SUPPORT
OF MOTION FOR ENTRY OF
DEFAULT AGAINST DEFENDANT**

CASE NO. CV 08-01851 JCS

COMES NOW, Plaintiff JASON O. WATSON, and submits this, his Brief in Support of his Motion for Entry of Default Against Defendant ROLLIN R. HEASSLER and shows the Court as follows:

STATEMENT OF FACTS

A Complaint was filed in this matter on April 7, 2008, and service of process was had on Defendant Rollin R. Heassler on April 8, 2008. (Affidavit of Gavin Kogan, ¶ 2 attached as Exhibit 1; Return of Service – Rollin R. Heassler, attached as Exhibit 2). More than twenty (20) days have elapsed since Defendant Heassler was served in this action, and Defendant Heassler has failed to plead or otherwise defend as provided by the Federal Rules of Civil Procedure. (Affidavit of Gavin Kogan, ¶ 3).

ARGUMENT AND CITATION OF AUTHORITY

Federal Rule of Civil Procedure 12(a)(1) provides that “[u]nless a different time is prescribed in a statute of the United States, a defendant shall serve an answer . . . within 20 days after being served with the summons and complaint.” Since Defendant Heassler was served with the summons and complaint on April 8, 2008, at 7:45 p.m., he was required to file and serve an answer on or before April 29, 2008. As of the date of the filing of this motion, Defendant Heassler has failed to file an answer or any other responsive pleadings in this case.

Federal Rule of Civil Procedure 55(a) provides that “[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend as provided by these rules and that fact is made to appear by affidavit or otherwise, the clerk shall enter the party’s default.” As demonstrated by the Affidavit of Gavin Kogan filed herewith, the Return of Service filed herewith, and the docket in this case, Defendant Heassler has failed to timely file an answer or any other responsive pleadings after being served with the summons and complaint. Accordingly, Plaintiff is entitled to the entry of a default against Defendant Heassler.

CONCLUSION

Plaintiff respectfully requests that his Motion for Entry of Default against Defendant Heassler be granted and that he be awarded any additional relief the Court deems proper.

{Signature on following page.}

1 This 13th day of May, 2008.

2 Respectfully submitted,

3
4
5 Gavin Kogan (CA Bar No. 201564)
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12 Attorneys for Plaintiff

13 **CERTIFICATE OF SERVICE**

14 I certify that I have this day served a copy of the following:

15 PLAINTIFF'S BRIEF IN SUPPORT OF

16 MOTION FOR ENTRY OF DEFAULT AGAINST DEFENDANT

17 upon all parties to this matter by depositing a copy of same in the U.S. mail, proper postage
18 prepaid, addressed as follows:

19 Rollin R. Heassler

20 612 Akron Street

21 Mountain View, California 94043

22 This 13th day of May, 2008.

23 Respectfully submitted,

24
25 Gavin Kogan (CA Bar No. 201564)
26 Email: gkogan@mac.com
27 Kogan & Associates, LLC
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Santa Cruz, CA 95060
(408) 361-8214 (telephone)
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Attorneys for Plaintiff

Exhibit 1

**AFFIDAVIT OF GAVIN KOGAN IN SUPPORT OF MOTION FOR ENTRY
OF DEFAULT AGAINST ROLLIN R. HEASSLER**

I, Gavin Kogan, declare under penalty of perjury that the following facts are true to the best of my information and belief:

1. I am the attorney for the Plaintiff in this action.
2. A Complaint was filed in this matter on April 7, 2008, and service of process was had on Defendant Rollin Heassler on April 8, 2008.
3. More than twenty (20) days have elapsed since Defendant Heassler was served in this action, and Defendant Heassler has failed to plead or otherwise defend as provided by the Federal Rules of Civil Procedure.

This 13th day of May, 2008.

GAVIN KOGAN
Attorney for Plaintiff

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address) Gavin Kogan, 201564 GAVIN KOGAN & ASSOCIATES 147 S. River St. SANTA CRUZ, CA 95060		TELEPHONE: (831) 429-1122	FOR COURT USE ONLY	
ATTORNEY FOR (Name): Plaintiff		Ref. No. or File No. Watson	FILED 2008 APR 11 P 2:01	
Insert name of court, judicial district or branch court, if any: United States District Court 280 S. First St. #2112 San Jose, CA 95113-3008				
PLAINTIFF: Jason O. Watson		RICHARD W. WIEKING CLERK U.S. DISTRICT COURT NO. DIST. OF CA. S.J.		
DEFENDANT: Rollin R. Heassler				
PROOF OF SERVICE	DATE:	TIME:	DEPT/DIV:	CASE NUMBER: C08 01851 JCS

1. At the time of service I was a citizen of the United States, over 18 years of age and not a party to this action, and I served copies of: Complaint, Summons, Civil Case Cover Sheet

2. Party Served: Rollin R. Heassler

3. Person Served: party in item 2

4. Date & Time of Delivery: 4/8/2008 7:45 PM

5. Address, City and State: 612 Akron Street
Mountain View, CA 94043

6. Manner of Service: Personal Service - By personally delivering copies.

BY FAX

Fee for Service: \$ 95.00

Registered California process server.
County: SANTA CLARA
Registration No.: 1145

Helen Melendez Vela
One Legal - 194-Marin
504 Redwood Blvd #223
Novato, CA 94947
415-491-0606

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct and that this declaration was executed on 4/10/2008 at Oakland, California.

Signature: _____

(SIGNATURE)

Helen Melendez Vela

FF# 6660212